

(b)(6)



U.S. Department of Homeland Security
U.S. Citizenship and Immigration Service
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

U.S. Citizenship
and Immigration
Services

DATE: JUN 25 2013

OFFICE: TEXAS SERVICE CENTER

FILE: [REDACTED]

IN RE: Petitioner:
Beneficiary: [REDACTED]

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:
[REDACTED]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The employment-based preference visa petition was initially approved by the Director, Texas Service Center (director). The director served the petitioner with notice of intent to revoke the approval of the petition (NOIR), dated November 16, 2011. In a Notice of Revocation (NOR) dated July 18, 2012, the director ultimately revoked the approval of the Form I-140, Immigrant Petition for Alien Worker. On January 2, 2013, the director dismissed the petitioner's motions to reopen and reconsider. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

Section 205 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1155, provides that "[t]he Attorney General [now Secretary, Department of Homeland Security], may, at any time, for what he deems to be good and sufficient cause, revoke the approval of any petition approved by him under section 204." The realization by the director that the petition was approved in error may be good and sufficient cause for revoking the approval. *Matter of Ho*, 19 I&N Dec. 582, 590 (BIA 1988).

The petitioner seeks to classify the beneficiary pursuant to section 203(b)(2) of the Act, 8 U.S.C. § 1153(b)(2) as a member of the professions holding an advanced degree. The director determined that the petitioner failed to demonstrate a continuing ability to pay the proffered wage beginning on the priority date.

On appeal, counsel merely stated that "Within 30 days of providing this Notice of Appeal, Counsel will file brief, along with additional evidence, laying out erroneous conclusions of law and/or fact." Counsel dated the appeal January 28, 2013. On June 11, 2013, more than four months after the appeal was filed, the AAO received additional evidence from counsel.¹ The regulation requires that any brief shall be submitted directly to the AAO. 8 C.F.R. §§ 103.3(a)(2)(vii) and (viii). The record does not contain a request by counsel for an extension of the deadline to submit the additional evidence, nor is there any record of the AAO granting such an extension. Therefore, the appeal as timely filed, does not specifically identify an erroneous conclusion of law or statement of fact for the appeal.

As stated in 8 C.F.R. § 103.3(a)(1)(v), an appeal shall be summarily dismissed if the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal. The appeal must therefore be summarily dismissed.

ORDER: The appeal is summarily dismissed.

¹ It is noted that counsel originally addressed the submission of additional evidence to the United States and Immigration Service (USCIS) lockbox in Arizona. While counsel dated the accompanying letter March 1, 2013, the package was shipped by the U.S. Postal Service on March 14, 2013 and was received by USCIS on March 22, 2013, more than 45 days after the appeal was filed.